

AB:PAS
F. #2018R02301

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

MICHAEL BROGAN,

Defendant.

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AFFIDAVIT AND
COMPLAINT IN SUPPORT
OF AN APPLICATION FOR
AN ARREST WARRANT

(T. 18, U.S.C., §§ 115(a)(1)(B) and 875(c))

18-M-1206

EASTERN DISTRICT OF NEW YORK, SS:

JOHN R. DELEGAN, being duly sworn, deposes and states that he is a Special Agent with the United States Capitol Police, duly appointed according to law and acting as such.

On or about December 4, 2018, within the Eastern District of New York and elsewhere, the defendant MICHAEL BROGAN did knowingly and intentionally threaten to murder a United States official, with intent to impede, intimidate, or interfere with such official while engaged in the performance of official duties, and with intent to retaliate against such official on account of the performance of official duties, to wit, MICHAEL BROGAN threatened to murder a United States Senator in retaliation for the United States Senator's criticism of the President of the United States of America and the Senator's position concerning reproductive rights.

(Title 18, United States Code, Section 115(a)(1)(B))

On or about On or about December 4, 2018, within the Eastern District of New York and elsewhere, the defendant MICHAEL BROGAN did knowingly and intentionally transmit in interstate and foreign commerce a communication containing a threat to injure the person of another, to wit, a threat to kill a United States Senator.

(Title 18, United States Code, Section 875(c))

The source of your deponent's information and the grounds for his belief are as follows:

1. I am a Special Agent with the United States Capitol Police ("USCP"), Investigations Division, Threat Assessment Section, and have been involved in the investigation of numerous cases involving threatening communications made to federal officials. The information in this Complaint comes from my personal involvement in the investigation, a review of records of USCP and other government agencies, reports of witness interviews and conversations with other law enforcement officers. Unless specifically indicated, all conversations and statements described in this affidavit are related in sum and substance and in part only. Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

2. I have reviewed a recorded voice-message (herein afterwards "the Voice-Message") that was provided to me by the staff of a sitting United States Senator (herein afterwards "the Senator"). The Senator is a "United States official" as defined in 18 U.S.C. § 115(c)(4). The Voice-Message was received by the Senator at the Senator's Washington, D.C. office. The Voice-Message was recorded on or about December 4, 2018 at

approximately 7:31 p.m. by a voice that appeared to be consistent with a male caller, who did not identify himself. The caller on the Voice-Message stated in sum and substance and in part:

You listen very carefully. Stupid ass excuse. You call yourself a Senator, you're a piece of shit. You are an absolute piece of shit, Senator. Senator, and I put that in quotation marks [the Senator], you're a fucking phony. You watch your ass cause I [unintelligible], I'm going to put a bullet in ya. When I'm in D.C. and you're there, I got your fucking mark you stupid bitch. You and your constant lambasting of President Trump. Oh, reproductive rights, reproductive rights. You know what? I'm cursing and I'm in sin because of people like you, ok? Cause I value the God given right to life. You are alive. You should thank our lord and savior Jesus Christ that you are alive. But instead, reproductive rights, reproductive rights. If I saw you, I'd snuff your stupid fucking ass. I'd put a fucking bullet in you. You watch your ass. If I see you on the streets, I'm gonna fucking light you up with fucking bullets.

4. I have reviewed records obtained from a wireless telephone service provider for the phone number that was associated with the Voice-Message. Those records indicate that the Voice-Message was left by a wireless telephone number (718) XXX-XX61.¹ Based on my review of these wireless telephone records, I further learned that wireless telephone service for telephone number (718) XXX-XX61 was paid for by defendant, MICHAEL BROGAN (herein afterwards "BROGAN"). These payment records include an email address associated with BROGAN as well as a user address in Brooklyn, New York. Additionally, (718) is a telephone area code that includes the geographic location of Brooklyn, New York. Further law enforcement investigation has determined that the user address in

¹ The complete wireless telephone number is known to me, but for privacy purposes I have omitted the entire telephone number reference in this affidavit.

Brooklyn, New York is associated with BROGAN. Based on my further review of location information provided by BROGAN's wireless telephone service provider, I learned, in substance, that the call to the Senator was made from at or in the vicinity of BROGAN's home in Brooklyn, New York.

5. I have also reviewed phone records obtained from the telephone service provider for the Senator's Washington, D.C. office. These phone records corroborate a call from BROGAN's wireless telephone number (718) XXX-XX61 on the date and time that the Voice-Message was left on the answering machine at the Senator's Washington, D.C. office.

6. I have also reviewed BROGAN's social media information, including information in which he previously indicated that in or about January 2017 and in or about January 2018 he traveled Washington, D.C. for the annual "March for Life." A review of publicly available information on the March for Life's event page states, "[m]arch against abortion and build a culture of life." Specifically, BROGAN posted on social media in or about January 2017, "on way to march for life 2017 in our nation's capital." In a separate social media post regarding the 2018 March for Life BROGAN posted, "[o]n the charter bus with St. Francis DeSales parish of Belle Harbour to March for Life 2018 in Washington, DC. Will this be the year?" Additional investigation has determined that the annual March for Life is currently scheduled to take place in or about January 2019 in Washington, D.C. Based on the Voice-Message discussed above that makes explicit reference to BROGAN's travel to Washington, D.C., as well as his prior travel to Washington, D.C., there is probable cause to conclude BROGAN was the author of the Voice-Message.

7. On or about December 12, 2018, Special Agents from the United States Capitol Police conducted a search warrant at BROGAN's Brooklyn, New York home. A

forensic review of a wireless telephone found in BROGAN's home uncovered that it was the wireless telephone used to call the Senator from telephone number (718) XXX-XX61.

8. BROGAN was read his Miranda rights, which he waived, agreeing to speak without an attorney present. BROGAN admitted to calling the Senator, but stated that he could not remember what he said in the Voice-Message. He further stated, in sum and substance and in part, that before leaving the Voice-Message he had watched an internet video of the Senator including Senator's criticism of the President of the United States as well as the Senator's views on reproductive rights and that viewing the Senator's statements regarding these political views made him "very angry."

9. On or about December 12, 2018, I spent approximately 3 hours with BROGAN, during which time I became familiar with his voice. I have reviewed the above-referenced Voice-Message, and based on my own experience with BROGAN, I believe that there is probable cause that BROGAN is the individual who left the Voice-Message for the Senator.

WHEREFORE, your deponent respectfully requests that the defendant
MICHAEL BROGAN be dealt with according to law.

JOHN R. DELEGAN
Special Agent, United States Capitol Police

Sworn to before me this
____ day of December, 2018

THE HONORABLE STEVEN L. TISCIONE
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK